

Punjab-Haryana High Court

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H.C.Arora vs State Of Punjab And Others on 10 August, 2009

CWP No. 8209 of 2007 [1] IN THE HIGH COURT OF PUNJAB & HARYANA AT

CHANDIGARH

CWP No. 8209 of 2007

Date of Decision: 10.08.2009

H.C.Arora ..Petitioner Versus

State of Punjab and others ..Respondents CORAM: HON'BLE MR. JUSTICE T.S.THAKUR,CHIEF JUSTICE HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA

1. Whether Reporters of local papers may be allowed to see the judgment ?

2. Whether to be referred to the Reporters or not ?

3. Whether the judgment should be reported in the Digest? Present : Mr. H.C.Arora, petitioner in person Mr. Anupam Gupta, Sr. Standing Counsel with

Mr. Rajesh Garg, Advocate for U.T. Administration. Mr. Rupinder Khosla, Addl. A.G. Punjab

for respondent-State of Punjab

Mr. Anil Rathee, Addl. Advocate General, Haryana for respondent-State of Haryana.

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T.S.Thakur, C.J. (Oral)

This petition has been filed in public interest. It prays for a mandamus directing the respondents to place all the Acts and the Rules in force in the States of Punjab, Haryana and Union Territory of Chandigarh on their respective official websites for the benefit of general public having regard to the obligations enjoined upon them CWP No. 8209 of 2007 [2] under Section 4(1)(b)(v) of The Right to Information Act, 2005, (for short 'the Act').

Mr. Arora, who appears in person argued that Section 4(1) (b)(v) of the Act aforementioned provides that every public authority shall publish within 120 days from the enactment of the Act every rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions. He submitted that even five years after the enactment of the statute and despite a clear mandate contained in Section 4(1)(b) of the Act , the respondents have not published the relevant rules, regulations, instructions, manuals and records held by them or under their control or to be used by their employees for discharging of their functions, no matter such publication is necessary as the public at large is seriously handicap on account of non-availability of upto date rules, regulations, instructions and manuals. It is urged by Mr. Arora that rules, regulations, instructions and manuals ought to be published by the respondents at the earliest as publication of rest of the material may require some time before the task can be accomplished. In response to a notice issued by this Court, the respondents have appeared and filed their affidavits. While the State of Haryana has on affidavit stated that they have complied with the requirements of publishing of the rules, regulations, instructions and manuals on their website, the State of Punjab despite grant of six months

time to it, has failed to do so nor has it offer any explanation for its failure. In so far as U.T. Administration of Chandigarh is concerned, Mr. Gupta, learned Senior Standing Counsel appearing on its behalf CWP No. 8209 of 2007 [3] states that the rules, regulations, instructions and manuals relating to U.T. Administration, Chandigarh have been published and placed on the website of U.T. Administration, Chandigarh. Mr. Arora is satisfied with the steps taken by the respondent-State of Haryana and U.T. Administration, Chandigarh but seeks a direction against the State of Punjab for early publication of the rules, regulations, instructions and manuals in a manner that would ensure proper dissemination of the information to the public at large especially over the Internet. He submits that the writ petition could be disposed of with suitable directions so that in case the State Government fails in making the publications within the extended period granted by this Court, the matter could be dealt with in appropriate contempt proceedings.

Section 4 of the Act no doubt requires every public authority to publish within one hundred and twenty days from the date of enactment of the Act the information stipulated therein. Section 4(1)(b)(v) requires the rules, regulations, instructions, manuals and records, held by the public authority or under its control to be published. The expression 'record' as defined in Section 2(i) includes any document, manuscript and file, any microfilm, microfiche and facsimile copy of a document, any reproduction of image or images embodied in such microfilm and any other material produced by a computer or any other device. The obligation to publish the requisite information enumerated under Section 4(1)(b) of the Act, therefore, involves a mammoth exercise at all levels. If the said exercise has not even begun in the State of Punjab despite lapse of five years since the CWP No. 8209 of 2007 [4] Act has been enforced, it is difficult to say how the State can accomplish of the said exercise within a period of one month which Mr. Khosla prayed for. Absence of any explanation forthcoming from the State of Punjab for its failure even to make a beginning is a clear indicative of a total failure on its part in complying with the requirements of the Act. This is not a happy situation. But so long as the Act requires, the information to be published and so long as that publication has a purpose to achieve, there is no reason muchless any justification for the State not to take appropriate steps in having the required material published. What is regrettable is that the State has not even constituted a nucleus or set up a special or technical cell for undertaking this exercise. All that has been done, according to Mr. Khosla, is that the Government have written to the different Administrative Departments in this regard. We fail to appreciate as to how such correspondence inter-se the Administrative Departments which has been languishing for the past five years and gathering dust somewhere on some Secretary or Under-Secretary's table, would help the State in doing what it was supposed to do within 120 days. The situation is wholly unenviable for the State Government to say the least and does not reflect well on those who are supposed to ensure implementation of the Act. Having said so, we are of the view that there is no need for us to continue with these proceedings especially when Mr. Arora does not insist us on a continuous monitoring of the exercise by this Court. Suitable directions for publication of rules, regulations, instructions and manuals for the present would according to Mr. Arora serve the purpose underlying these proceedings. CWP No. 8209 of 2007 [5] In the circumstances, therefore, we dispose of this petition with a direction that while the States of Haryana and U.T. Administration, Chandigarh would keep its rules, regulations, instructions and manuals updated from time to time. The State of Punjab shall publish the rules, regulations, instructions and manuals referred to in Section 4(1)(b)(v) of the Act as early as possible but not later than six months from today. No costs.

A copy of the order shall be given dasti to Mr.Khosla for compliance under the signature of the Bench Secretary. (T.S.THAKUR)

CHIEF JUSTICE

(KANWALJIT SINGH AHLUWALIA)

JUDGE

10.08.2009

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